

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

FREDDIE D. MATTHEWS

PLAINTIFF

v.

Civil No. 06-5064

OFFICER K. HILL; and
OFFICER M. DUNHAM

DEFENDANTS

ORDER

Defendants have filed motions for summary judgment (Doc. 33 and Doc. 45). Plaintiff responded to the motions (Doc. 42 and Doc. 46). However, plaintiff has also filed a motion asking for the court to assist him in responding to the motions by propounding a questionnaire (Doc. 48). The motion (Doc. 48) for a questionnaire is granted. The court will consider plaintiff's response to the questionnaire in issuing an opinion on the summary judgment motions. The court will also consider plaintiff's initial responses to the summary judgment motions (Doc. 42 and Doc. 46).

For this reason, Freddie D. Matthews is hereby directed to complete, sign, and return the attached response to defendants' summary judgment motions on or before **December 24, 2007**. **Plaintiff's failure to respond within the required period of time may subject this matter to dismissal for failure to comply with a court order.**

IT IS SO ORDERED this 21st day of November 2007.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE

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Civil No. 06-5064

OFFICER K. HILL; and
OFFICER M. DUNHAM

DEFENDANTS

RESPONSE TO SUMMARY JUDGMENT MOTION

TO: FREDDIE D. MATTHEWS

These questions and answers will serve as your response to the motions for summary judgment filed by the defendants. You may use additional sheets of paper in responding to these questions. You must file this response by **December 24, 2007**.

1. Warrant #110103 was issued on February 28, 2006, for your arrest after you violated the terms of your parole.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to the Defendants' Exhibit 1 at page 1.

2. On February 28, 2006, you were booked into the Washington County Detention Center (WCDC) on a parole violation, and on charges of domestic battery, terroristic

threatening, criminal mischief, and endangering the welfare of a minor.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page

2.

3. As part of the booking process, you completed a medical questionnaire on February 28th. You indicated you had been treated for mental illness and depression, were currently under a doctor's care, took trazadone for mental illness, and were seeing a doctor in prison.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page

1.

4. On February 28th, you signed a medical release and informed consent for medical services which was witnessed by Officer C. King.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 2.

5. On February 28th, you signed an inmate medical insurance information form agreeing to accept responsibility for your medical charges.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 3.

6. On March 2nd you submitted a request for medical attention. You stated you needed to speak to the nurse and try to get your medical jacket from the Arkansas Department of Correction (ADC). You indicated you needed to get your mental health psychiatrist papers so you could get some help.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 4.

7. In response, Nurse Bradley advised you that you would need to have your lawyer contact the ADC to get your medical records.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 3.

8. On March 2, 3, 4, and 5, you submitted requests about the Fayetteville Police Department and wanting to bring charges against various individuals.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at pages 1-4.

9. In response, you were provided the address of the Fayetteville Police Department and told to contact your attorney.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at pages 1-4.

10. On March 8th you submitted a medical request asking for a copy of your "mental diagnosis" to help with your Supplement Security Income (SSI) application.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 5.

11. In response, you were told you could get SSI to get the records from the ADC.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 5.

12. On March 11th you were assigned to N block.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

13. At approximately, 14:30 or 2:30 p.m., Deputy Greg Clark was in N block doing a count of inmates. Deputies Kyle Hill and Matthew Dunham were also in N block.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

14(A). You began yelling at Hill for taking your spoon. Hill and Dunham went to check for contraband in your cell.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page

1.

(B). Hill and Dunham were inside your cell and you stepped in front of the cell door blocking Hill and Dunham from leaving.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page

2.

(C). You were advised to back away from the door.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page

2.

(D). You took an aggressive stance with your fists clinched and did not back away.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 2.

15. Hill called over the radio for assistance in N block.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

16. Clark went upstairs to assist.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

17. Hill instructed you to calm down, back up, and get out of the cell.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

18. You became irate. Hill reached for his handcuffs.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

19. You took your shirt off, threw it down, and stated you were not going to lockdown.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

20. You continued to yell. Hill approached you and attempted to take you to the ground.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

21. Dunham and Clark assisted Hill in taking you to the ground. You were instructed to stop resisting. You ignored their instructions and continued to fight.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

22. After about three minutes of fighting, Hill handcuffed you and Clark, Dunham, and Hill escorted you out of the block and into M block.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 1.

23. Officers Daniel Walker, Matthew Dunham, and Michael Cambron submitted incident reports regarding your refusal to obey the officers' orders and refusal to lockdown on March 11th.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4.

24. Inmate Cecil Southern filed a grievance stating that you were six to eight feet

away from Hill when he started yelling for help. In Southern's opinion, Hill did not know how to handle you and Hill's behavior was unacceptable.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 5.

25. James Estes submitted a grievance stating that people didn't like being locked out and frustration manifested in what occurred that day.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 7.

26. Clay Worthen submitted a statement about the incident stating that you were easily angered and Hill didn't treat inmates with enough respect and had a perception of power that produced an unfortunate situation.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 8.

27. David Garrert submitted a statement that they didn't need someone like Hill working at the detention center.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 9.

28. On March 12th, at 16:15 or approximately 4:15 p.m., when Dunham was passing out medication, you asked Dunham where his partner was. When Dunham asked which partner you were referring to you said the one he was with yesterday.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 3.

29. You then said it wasn't right what they did yesterday and "it's blood for blood now, you better not let me catch you sleeping!"

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 3.

30. Officers Dunham, Logue, and Conner all reported hearing you make these statements.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 3.

31. On March 13th Nurse Moon was called to M block where you were complaining

of vomiting and a headache. She offered you a phenegran suppository. You declined and were given two pepto bismol tablets.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 6.

32. On March 16th you stated you intended to sue the detention center as a result of the incident on March 11th.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 13.

33. On March 17th you requested a copy of the picture taken of your back by Sgt. Fuller and wanted a copy of the report. You said again you were going to sue. You were told to write the U.S. Magistrate and given the address.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 14.

34. On March 17th you stated you had eight pair of pants, eight shirts, and three coats, in your property that you wanted to mail back home. In response, you were told to get a friend or family member to get your clothes.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 15.

35. On March 18th you requested a § 1983 form to start your case.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 16.

36. On March 18th you requested pictures of your injury and copies of all statements. In response, you were told they only provided copies of commitment papers and all other copies must be requested by your attorney.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 17.

37. On March 20th you requested the addresses of two attorneys, Doug Norwood and Dan Ivy. The address were provided.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 18.

38(A). In your response (Doc. 42 at page 18), you state that after the altercation you

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Agree Disagree Without knowledge to agree or disagree .

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 7.

(C). The March 21st request was the first written medical request you submitted mentioning any injuries from the March 11th incident.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

39. You were seen by Nurse Bradley on March 22nd. She found you had normal range of motion and no deformities. She prescribed Ibuprofen, 600 mg., three times a day on an as needed basis for up to fourteen days.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at page 7.

40. You received the Ibuprofen from March 22nd until April 4th.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 2 at pages 11 & 13.

41. On March 22nd, Corporal Matthews submitted an incident report stating that you did not have your armband on and did not line up for count. You indicated another inmate Kevin Buchanan had your armband. You were told that you needed to wear your armband at all times and line up for count. You complied.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 4 at page 5.

42. On March 22nd and March 26th you submitted requests for legal envelopes and

notary services. You were provided envelopes but told you would have to have your attorney or family arrange for the notary services.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at pages 19-22.

43. On March 30th you requested that Dunham not work around you because of problems you had due to the pending lawsuit. Jail personnel noted the problem had been resolved. Please state how the problem was resolved.

Answer:

44. On March 30th you requested the full names and badge numbers of the officers involved in your incident. You were told you only needed the last name to file grievances.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 25.

45. On March 31st you asked for the full names of K. Hill and M. Dunham. You were informed you would need to speak to Corporal Freeman who was handling the paperwork.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 26.

46. On April 5th you asked for information on your charges. You were provided the information.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 27.

47. On April 12th, 14th, and 17th, you asked for legal envelopes and for your legal papers back from Freeman. You were provided with these materials.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at pages 28-30.

48. You were released to the ADC on April 26th.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page 3.

49. You returned to the WCDC on May 9th for court.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page 4.

50. You completed a medical questionnaire indicating you had no health problems other than the fact you were taking thorazine.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page 5.

51. Were you taking the thorazine to treat depression?

Answer: Yes _____ No _____.

If you answered no, please explain why you are taking the thorazine.

52. You submitted a grievance on May 12th in which you stated you were assaulted by Dunham and Hill on March 11th and would like to press charges against them. You

indicated you also had a lawsuit pending against them.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 32.

53. In response you were told if you had a lawsuit against the officers already "it will be taken care of then."

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 32.

54. On May 12th you asked why you were being placed on lock down. You asked if the jail had something against black people. Sgt. Charles responded that Sgt. Wilson does not discriminate against any race and must have locked you down for your safety. You were told Sgt. Wilson would be back on Wednesday.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 33.

55. On May 19th you requested copies of legal papers sent from the prison, copies of photographs taken of your back after the incident on March 11th, and copies of the incident reports.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 35.

56. In response, you were told you could get that information through your attorney.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 35.

57. On May 21st you requested information regarding the March 11th incident including a document sent to Lt. Mitchell.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 36.

58. Lt. Mitchell responded that he didn't have any such document and didn't have your paperwork.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 3 at page 36.

59. You were released back to the ADC on June 19th.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 1 at page 6.

60. Your ADC medical records make no mention of any injury allegedly caused by the March 11th incident at the jail.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 5.

61. Your intake physical on May 3, 2006, states no problems with your extremities other than surgery to your left forearm. It is noted you have a firm grip and no atrophy of biceps.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 5 at page 1.

62. You mentioned no specific problems with your back or shoulder during your intake physical. In the history portion you did mention that you sometimes had recurrent back pain.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to Defendants' Exhibit 5 at pages 1-3 and 5.

63. Please describe in detail the amount of physical force used against you on March 11th by Hill.

Answer:

Answer:

[illegible]

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If you disagree, explain.

[illegible]

If you disagree, explain.

68. You only sought medical treatment following the March 11th incident on one occasion and were prescribed Ibuprofen by the jail nurse.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

69. Under section 1983, an individual may be sued in his official capacity, in his individual capacity, or in both capacities. An official capacity claim is the same as a claim against the entity for whom the individual works and requires a showing of a custom or policy. Ordinarily, if you fail to state what capacity you are suing an individual in, the law presumes you are bringing only an official capacity claim. An individual capacity claim seeks to hold the individual personally liable. Did you intend to bring an official capacity claim, an individual capacity claim, or both types of claims against the defendants?

Answer:

[illegible]

EXECUTED ON THIS _____ DAY OF _____ 2007.

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